

REMARKS

After entering the above amendments, claims 1-26 will be pending. Claims 1, 12, and 19 have been amended and claims 23-26 have been added. No new matter has been added. Reconsideration and allowance of the current application are requested.

Rejections under § 112

Claims 1-22 are rejected under section 112 as allegedly being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter. These rejections are traversed.

The rejections cite that the following phrases are allegedly indefinite: "at least one event," "one or more event," and "an event." The only thing in common with these phrases is the term "event," so at best it can be deduced that the use of the term "event" is at issue. It is submitted that this term is not indefinite, thus, these rejections should be withdrawn.

Rejections Fail to Meet Burden of Examination

As an initial matter the initial burden of examination has not have been met such that rejections should be withdrawn. MPEP section 2173.02 states in part:

"If upon review of a claim in its entirety, the examiner concludes that a rejection under 35 U.S.C. 112, second paragraph, is appropriate, such a rejection should be made and **an analysis as to why the phrase(s) used in the claim is 'vague and indefinite' should be included** in the Office action." (emphasis added).

If such an analysis was to be included, one might expect application of standards related to section 112, second paragraph, yet that does not appear. One test of section 112, second paragraph is to consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function. MPEP 2173.02. Yet, no sufficient explanation is given as to why one of ordinary skill in the art would not understand the scope of the term "event"; the only explanation that is given is a conclusory statement that "it is vague and unclear as what applicant is referring to," which could hardly be said to satisfy the burden of examination to provide an analysis as to why the term "event" is vague and indefinite or why the claims are otherwise unable to apprise one of ordinary skill in the art of its scope.

As another example, the MPEP states that if definiteness is a concern, that the following criteria should be considered:

“Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

(A) The content of the particular application disclosure;

(B) The teachings of the prior art; and

(C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” MPEP 2173.02.

Yet, none of these considerations appear to have been taken, which makes understanding of the indefiniteness rejection challenging, at the least.

Thus, as an initial matter, it is not clear why the term “event” is indefinite and an initial burden of examination has not been met such that the rejections should be withdrawn.

The Term “Event” is Not Indefinite

Regardless of the contentions above, it is submitted that the term “event” is not indefinite.

The rejections are without merit for at least the reason that the claims include language to further describe events and the language is well-described at least by example in the specification such that one of ordinary skill in the art would be apprised of the scope of the term “event.” The claims do not simply recite an “event” and nothing more; rather, the claims recite, an “event related to the request message” (claim 1), “an event associated with the asynchronous request message” (claim 12), and “an event associated with the request message” (claim 19). In the description, excluding the claims, the terms event and events are mentioned no fewer than twenty times. One of ordinary skill in the art would understand that examples of such events are included in the description, at least in paragraphs 58-64 by reference to “acknowledgment state[s] that] can be set in the acknowledgment message denoting the outcome of the acknowledgment event,” such that the claim language is not indefinite. For example, those paragraphs recite example acknowledgement states that include:

“ApplicationOk (A): Request message processed correctly in the application.

ApplicationError (A): Request message processed with error in the application.

MessageCancel (T, A): Processing of request message canceled after error.

SystemErrorRequest (T, A): System error during processing of request message.

TransportOk (T): Request message arrived correctly in final receiver system.

TransportAckNotPossible (T): outbound adapter does not support transport acknowledgments.

ApplicationAckNotPossible (A): outbound adapter does not support application acknowledgments.”

Given that a test of section 112, second paragraph is whether consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function, and that claims in their entirety, in light of the specification, have provided this, the rejections should be withdrawn.

Rejections under § 101

Claims 12-18 are rejected under section 101 because allegedly the claimed invention is directed to non-statutory subject matter. These rejections are traversed.

The claims are allegedly directed to non-statutory subject matter because of the inclusion of a conditional statement starting with the word “if.” Allegedly,

“if this condition was not to occur, there would be no real-world result impact. In order for a method claim to be statutory, it must result in a useful, concrete and tangible result.”

This line of reasoning is without merit for at least the reasons that 1) the line of reasoning ignores the utility provided by the condition existing and 2) even assuming the allegations to be correct, the law does not require 100% utility 100% of the time.

As an initial matter, the line of reasoning ignores that a conditional statement, by itself, may provide utility through the condition existing. For example, with regards to claim 12, because the conditional statement exists, rather than always “transmitting an asynchronous acknowledgement message to the sender system upon occurrence of the event,” in implementations an asynchronous acknowledgement message may be transmitted “if an acknowledgement to the event associated with the asynchronous request message is requested,” and other responses or no responses may occur otherwise. If the acknowledgement message were always transmitted, some might say that utility has been hindered, as there might be no selective transmission of an acknowledgement message. Thus, the nature of the conditional statement may provide utility.

Even assuming the allegations to be correct, the law does not require 100% utility 100% of the time such that the claimed subject matter provides sufficient utility and the rejections are improper. In particular, courts have declared:

“[t]o violate [35 U.S.C.] 101 the claimed device **must be totally incapable** of achieving a useful result.” *Brooktree Corp. v. Advanced Micro Devices, Inc.*, 977 F.2d 1555, 1571, 24 USPQ2d 1401, 1412 (Fed. Cir. 1992) (emphasis added); and

“A small degree of utility is sufficient . . . The claimed invention **must only be capable of performing some beneficial function** . . . An invention does not lack utility merely because the particular embodiment disclosed in the patent lacks perfection or performs crudely . . . A commercially successful product is not required . . . **Nor is it essential** that the invention accomplish all its intended functions . . . or **operate under all conditions** . . . partial success being sufficient to demonstrate patentable utility . . . In short, the defense of non-utility cannot be sustained without proof of total incapacity.” *E.I. du Pont De Nemours and Co. v. Berkley and Co.*, 620 F.2d 1247, 1260 n.17, 205 USPQ 1, 10 n.17 (8th Cir. 1980) (emphasis added).

Thus, for at least the reasons above, the rejections under section 101 should be withdrawn.

Rejections under § 103

Claims 1 and 4-14 are rejected under section 103(a) as allegedly being unpatentable over Ho et al. (US 2003/0135640; Ho) in view of Wilhelmsson (US 5,654,969; Wilhelmsson). Claims 2, 3, 17 and 18 are rejected under section 103(a) as allegedly being unpatentable over Ho in view of Wilhelmsson and further in view of Frymier (US 5,604,487; Frymier). Claims 15 and 16 are rejected under section 103(a) as allegedly being unpatentable over Ho in view of Wilhelmsson and further in view of Bunton (US 7,010,607). Claims 19-22 are rejected under section 103(a) as allegedly being unpatentable over Ruutu et al. (US 7,032,111) in view of Bunce et al. (US 2003/0163589 A1). These rejections are traversed.

As amended independent claims 1, 12, and 19 include features directed to asynchronous request messages being asynchronous request messages for enterprise application-level

processing of the asynchronous request messages at a receiver system. These features are not disclosed in Ho, Wilhelmsson, Ruutu, or Bunce, such that the claimed subject matter is not obvious in view of the cited references.

As an example, claim 1 recites, in part:

“providing one or more requests for acknowledgement in an asynchronous request message transmitted from a sender system, wherein each request for acknowledgement corresponds to at least one event related to the request message, the asynchronous request message for enterprise application-level processing of the asynchronous request message at a receiver system, the request message being in a format in accordance with extensible markup language format and being at a communication layer higher than an Open Systems Interconnection Basic Reference Model layer 3.” (emphasis added).

Each of the cited references against the independent claims do not recite the features of the independent claims for at least the reason they are not concerned with enterprise application-level processing of request messages. For example, Ho recites in part:

“FIG. 7 shows an implementation of the preferred embodiment in the content of 802.11(e) standard.” ¶ 26 of Ho.

“The base 802.11 standard provides medium access control (MAC) and physical layer (PHY) specifications for telecommunications and information exchange on a wireless local area network (WLAN). The 802.11 e/D2.0a draft standard defines, on the basis of the base 802.11 standard, medium access control (MAC) enhancements for quality of service (QoS).” ¶ 39 of Ho.

As another example, Wilhelmsson recites in part:

“The invention can be used, inter alia, in connection with the so-called “hardware platform” corresponding to the longitudinal layer of the OSI model, in which, especially, the MAC (Medium Access Control) part is of interest. The invention also takes into account the existing physical layers and utilization of current software which is included. The invention can be used, inter alia, with a DTM (Dynamic Synchronous Transfer Mode) protocol such as that used in the MultiG project and; to the proposed IEEE 802.9.” Col. 1:13-21 of Wilhelmsson.

As another example, Ruutu recites in part:

"1. A method for processing IP traffic based on the information within TCP headers carried in IP datagrams..." Claim 1 of Ruutu.

As another example, Bunce recites in part:

"As depicted in FIG. 2, a protocol handler 202, which in the exemplary embodiment is configured as a Fibre Channel protocol handler, includes a memory device 204, an inbound direct memory access (DMA) controller 205, and an inbound first-input-first-output (FIFO) buffer 207 for receiving inbound traffic, an inbound DMA controller 222 and an outbound FIFO buffer 220 for transmitting outbound traffic, and an array of processors or threads 214a-214n." ¶ 20 of Bunce.

Thus, in view of the above, independent claims 1, 12, and 19 are not obvious and should be allowed. As claims 2-11, 13-18, and 20-26 depend on the independent claims, these claims should also be allowed.

Additional Reasons for Claim 1

In addition to the reasons discussed above, claim 1 is also not obvious over the prior art because it includes features directed to extensible markup language messaging and an exchange infrastructure for communication among components of collaborative business systems, where the components include the sender system and the receiving system; none of which is disclosed in the cited references.

New Claims

In addition to the reasons stated above, new claims 23-27 are independently patentable because they include features not disclosed in the cited references. For example, claim 23 recites in part:

"the asynchronous request message comprises a plurality of requests comprising a first request for acknowledgement of a state of processing of the asynchronous request message at a software application of the receiver system and each of the requests is to result in a separate acknowledgment message."

As another example, claim 24 recites in part:

"the first request is a request for acknowledgement of whether the software application failed to process the message, the software application being an application offering services to the sender system."

As another example, claim 25 recites in part:

“transmitting the request message comprises transmitting the request message in an exchange infrastructure for communication among components of collaborative business systems.”

As another example, claim 26 recites in part:

“the components are web-based applications.”

As another example, claim 27 recites in part:

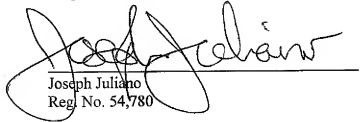
“the requests for acknowledgement and the acknowledgement are messages formatted in accordance with extensible markup language format.”

CONCLUSION

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

The Commissioner is hereby authorized to charge the additional claim fee and any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-063. If there are any questions regarding reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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